



## Senate

General Assembly

**File No. 395**

February Session, 2002

Substitute Senate Bill No. 629

*Senate, April 9, 2002*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING MANDATORY TESTING OF DRIVERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-227c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 As part of the investigation of any motor vehicle accident resulting  
4 in a fatality, the Chief Medical Examiner, Deputy Chief Medical  
5 Examiner, an associate medical examiner, a pathologist as specified in  
6 section 19a-405, or an authorized assistant medical examiner, as the  
7 case may be, shall order that a blood sample be taken from the body of  
8 any operator or pedestrian who dies as a result of such accident. Such  
9 blood samples shall be examined for the presence and concentration of  
10 alcohol by the Division of Scientific Services within the Department of  
11 Public Safety or by the Office of the Chief Medical Examiner. [To the  
12 extent provided by law, a] A blood or breath sample [may also] shall  
13 be obtained from any surviving operator whose motor vehicle is  
14 involved in [such] an accident resulting in a serious physical injury, as

15 defined in section 53a-3, as amended, or a fatality, if a police officer has  
16 probable cause to believe that such operator operated such motor  
17 vehicle while under the influence of intoxicating liquor or drugs or  
18 both. The test shall be performed by or at the direction of a police  
19 officer according to methods and with equipment approved by the  
20 Department of Public Safety and shall be performed by a person  
21 certified or recertified for such purpose by said department or  
22 recertified by persons certified as instructors by the Commissioner of  
23 Public Safety. The equipment used for such test shall be checked for  
24 accuracy by a person certified by the Department of Public Safety  
25 immediately before and after such test is performed. If a blood test is  
26 performed, it shall be on a blood sample taken by a person licensed to  
27 practice medicine and surgery in this state, a qualified laboratory  
28 technician, an emergency medical technician II, a registered nurse or a  
29 phlebotomist. [, as defined in subsection (m) of section 14-227a.] The  
30 blood samples obtained from the surviving operator shall be examined  
31 for the presence and concentration of alcohol by the Division of  
32 Scientific Services within the Department of Public Safety. Nothing in  
33 this section or section 19a-406 shall be construed as requiring such  
34 medical examiner to perform an autopsy in connection with obtaining  
35 such blood samples.

36 Sec. 2. Subsection (e) of section 14-227a of the general statutes is  
37 repealed and the following is substituted in lieu thereof (*Effective*  
38 *October 1, 2002*):

39 (e) The Commissioner of Public Safety or the Commissioner of  
40 Public Health shall ascertain the reliability of each method and type of  
41 device offered for chemical testing and analysis purposes of blood, of  
42 breath and of urine and certify those methods and types which said  
43 commissioner finds suitable for use in testing and analysis of blood,  
44 breath and urine, respectively, in this state. The Commissioner of  
45 Public Safety, in consultation with the Commissioner of Public Health,  
46 shall adopt regulations, in accordance with chapter 54, governing the  
47 conduct of chemical tests, the operation and use of chemical test  
48 devices, the training and certification of operators of such devices and

49 the drawing or obtaining of blood, breath or urine samples as said  
50 commissioner finds necessary to protect the health and safety of  
51 persons who submit to chemical tests and to insure reasonable  
52 accuracy in testing results. Such regulations shall not require  
53 recertification of a police officer solely because such officer terminates  
54 such officer's employment with the law enforcement agency for which  
55 certification was originally issued and commences employment with  
56 another such agency.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>

***Statement of Legislative Commissioners:***

In section 1, an obsolete reference was deleted.

***JUD***      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Cost	Public Safety, Dept.	None	Potential Minimal	Potential Minimal
GF - Cost	Public Health, Dept.	None	Potential Significant	Potential Significant

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

##### Department of Public Safety

The bill requires blood testing of any operator involved in an accident resulting in serious physical injury or death. Currently in cases where there is a motor vehicle accident involving serious injury combined with a suspicion of driving under the influence, most operators are tested. The Department of Public Safety Toxicology Laboratory conducted 5,000 tests last year. Testing for blood alcohol concentrations costs \$60 per sample and testing for drugs is \$150 - \$200 per sample.

While there were almost 3,500 DUI arrests last year, 600 or less than 2% of all traffic accidents involved DUI arrests.<sup>1</sup> If the number of additional cases is not greater than 300-400, it is anticipated that the lab would be able to handle such an increase within existing resources. The actual number of cases that will fall under the provisions of this bill is unknown at this time.

<sup>1</sup> Last year in Connecticut, there were 33,423 total motor vehicle accidents.

Department of Public Health

An uncertain fiscal impact will result from the passage of Section 2, which reinstates the authority of the Department of Public Health (DPH) to ascertain the reliability of methods and types of devices for blood, breath and urine testing. Commencing in FY 00, all staff and resources of DPH's Toxicology/Criminology Laboratory were moved under the Department of Public Safety. PA 99-218 assigned the responsibility for ascertaining the reliability of each method/type of device to the commissioner of public safety.

DPH no longer employs staff with expertise in this area. It is therefore assumed that the agency will not invoke the restored authority unless additional resources are secured. Consulting forensic toxicologist services for this purpose could cost up to \$50,000 annually.

DNA Data Bank Oversight Panel

Finally, the bill establishes a DNA Data Bank Oversight Panel composed of the Chief State's Attorney, the Attorney General, the Commissioner of Public Safety and the Commissioner of Correction. It conforms statute to current practice. Consequently, there is no fiscal impact.

---

**OLR Bill Analysis**

sSB 629

**AN ACT CONCERNING MANDATORY TESTING OF DRIVERS****SUMMARY:**

This bill requires a blood or breath test of a driver who survives a motor vehicle accident that resulted in serious physical injury or fatality, if a police officer has probable cause to believe that the driver was under the influence of alcohol, drugs, or both. Serious physical injury is physical injury that creates a substantial risk of death or causes serious disfigurement, serious impairment of health, or serious loss or impairment of the functioning of an organ. Under current law, drivers impliedly consent to submit to a drug or alcohol test and, if they refuse a test after arrest for driving under the influence, are subject to administrative license suspension procedures. Current law also requires a blood test from a driver or pedestrian who dies due to a motor vehicle accident.

The bill also allows the public health commissioner, in addition to the public safety commissioner, to determine the reliability of methods and devices for testing and analyzing blood, breath, and urine and to certify those that are suitable for use. By law, the public safety commissioner, in consultation with the public health commissioner, adopts regulations on conducting tests, using devices, and training and certification requirement.

EFFECTIVE DATE: October 1, 2002

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40      Nay 0